

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	
	:	14 Cr. 553 (LGS)
-against-	:	
	:	<u>ORDER</u>
COREY SPIVEY,	:	
	:	
Defendant.	:	
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LORNA G. SCHOFIELD, District Judge:

WHEREAS, on April 19, 2013, Defendant was arrested by the New York City Police Department and remanded by a state court judge. On May 16, 2013, a Bronx County grand jury returned an eight-count indictment charging Defendant with multiple offenses arising from his sexual assault of a minor and his contacts with another minor on the internet.

WHEREAS, on August 20, 2014, a grand jury sitting in this district returned a six-count indictment charging Defendant with four counts of producing child pornography, one count of receiving and distributing child pornography and one count of possessing child pornography, in violation of 18 U.S.C. § 2251(a), (e) and 2, § 2252A(a)(2)(A), (a)(2)(B), (b)(1) and 2 and § 2252A(a)(5)(B) and (b)(2).

WHEREAS, on or about October 15, 2014, Defendant was transferred from state custody into federal custody pending the adjudication of his federal charges.

WHEREAS, on September 20, 2016, Defendant pleaded guilty to Counts 1 and 5 of the Indictment charging production of child pornography and receipt and distribution of child pornography.

WHEREAS, on May 16, 2017, Defendant was sentenced principally to a custodial term of

276 months on Count 1 and 240 months on Count 5 to run concurrently. The Court recommended that the Bureau of Prisons (“BOP”) designate Defendant to FMC Devens, USP Marion, or one of the seven correctional facilities that can provide medical treatment for Defendant’s medical condition.

WHEREAS, on or about May 23, 2017, Defendant was transferred back to state custody where he pleaded guilty to the commission of a criminal sexual act in the first degree, in violation of New York Penal Law § 130.50(4). On December 19, 2017, Defendant was sentenced principally to a custodial term of twenty years’ imprisonment to run concurrently with his federal sentence.

WHEREAS, on May 13, 2025, this matter was reassigned to me for all purposes.

WHEREAS, on July 17, 2025, Defendant filed a letter application asking that the Court (i) formally appoint Gary Becker as CJA counsel for Defendant *nunc pro tunc* from May 1, 2025, and (ii) issue an amended judgment directing that the defendant’s federal sentence run concurrently with his state sentence *nunc pro tunc*, or alternatively issue a formal recommendation to the BOP to designate retroactively his state correctional facilities as the places of confinement for him to serve his federal sentence, which would have the effect of running his state and federal sentences concurrently without the need for an amended judgment. (Dkt. No. 27)

WHEREAS, on July 29, 2025, the Government filed a response opposing the issuance of an amended judgment but consenting to Defendant’s alternative request for a formal judicial recommendation that the BOP retroactively designate Defendant’s state correctional facility as the place of confinement for the service of his federal sentence. (Dkt. No. 28) It is hereby

ORDERED that Defendant’s application for Gary G. Becker to be appointed as CJA

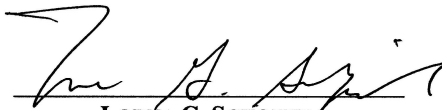
counsel for Defendant *nunc pro tunc* from May 1, 2025, is **GRANTED**. It is further

ORDERED that based on the Court's review of the procedural history of this case, including the Presentence Investigation Report, the transcript from the May 16, 2017, sentencing hearing, the Judgment of Conviction dated May 16, 2017, and the parties' respective letter briefs on this issue, Defendant's application for the issuance of an amended judgment is **DENIED** and his alternative application for a judicial recommendation to the BOP is **GRANTED**. It is further

ORDERED that by **August 22, 2025**, the parties shall confer and file a proposed recommendation for the Court's consideration.

The Clerk of the Court is directed to terminate the motions at docket numbers 26, 27 and 28.

Dated: August 11, 2025
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE